

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

JEROME McCRAY,

Petitioner,

v.

Case No. 4:21cv387-MW/MAF

WALT SUMMERS, WARDEN,

Respondent.

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**REPORT AND RECOMMENDATION TO TRANSFER
HABEAS CORPUS PETITION**

On or about September 1, 2021, Petitioner Jerome McCray, proceeding pro se, filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254. ECF No. 1. He has provided service copies and paid the filing fee. See *id.*

A review of the case reflects that Petitioner McCray challenges his current confinement pursuant to a state court conviction in case number 2016-303270CFDB from the Seventh Judicial Circuit Court, Volusia County, Florida, which is located in the Middle District of Florida. See ECF No. 1 at 1; 28 U.S.C. § 89(b). As relief, he seeks a new trial. See ECF No. 1 at 15.

Jurisdiction is appropriate in the district of confinement and the district of conviction. 28 U.S.C. § 2241(d) (providing that state prisoner may file habeas petition in district of conviction or in district of incarceration).

Petitioner McCray is currently incarcerated at the Liberty Correctional Institution, in Bristol, Florida, which is in the Northern District of Florida. ECF No. 1; see 28 U.S.C. § 89(a). In this case, however, because the district of conviction appears to be the most convenient and appropriate venue, this petition should be transferred to the United States District Court for the Middle District of Florida, Orlando Division. *Id.*; M.D. Fla. R. 1.04(a). See Byrd v. Martin, 754 F.2d 963, 965 (11th Cir. 1985); Parker v. Singletary, 974 F.2d 1562, 1582 (11th Cir. 1992).

Accordingly, it is respectfully **RECOMMENDED** that the case file, including any service copies and pending motions, be **TRANSFERRED** to the United States District Court for the Middle District of Florida, Orlando Division, for all further proceedings.

IN CHAMBERS at Tallahassee, Florida, on September 24, 2021.

S/ Martin A. Fitzpatrick
MARTIN A. FITZPATRICK
UNITED STATES MAGISTRATE JUDGE

NOTICE TO THE PARTIES

Within fourteen (14) days after being served with a copy of this Report and Recommendation, a party may serve and file specific written objections to these proposed findings and recommendations. Fed. R. Civ. P. 72(b)(2). A copy of the objections shall be served upon all other parties. A party may respond to another party's objections

within fourteen (14) days after being served with a copy thereof. Fed. R. Civ. P. 72(b)(2). Any different deadline that may appear on the electronic docket is for the Court's internal use only and does not control. If a party fails to object to the magistrate judge's findings or recommendations as to any particular claim or issue contained in a Report and Recommendation, that party waives the right to challenge on appeal the district court's order based on the unobjected-to factual and legal conclusions. See 11th Cir. R. 3-1; 28 U.S.C. § 636.